

The Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON-TACOMA**

JOHN DOE, et al)	No. 09 CV 05456 BHS
Plaintiffs)	
)	
Vs.)	WEST'S MOTION TO
)	VACATE AND JOIN,
)	AND FOR A RULING
SAM REED, et al)	ON THE MOTION TO
Respondents)	RECONSIDER
)	Set for August 12, 2010

Comes now Arthur West, and respectfully moves the Court to enter an order on his motion to reconsider, previously filed in this case, and to vacate its previous orders in light of the Washington State Supreme Court's ruling in *Burt v. Department of Licensing*, No 80998-4, where Allan Parmelee, a convicted arsonist residing at the McNeil Island Corrections Center, was found, under CR 19(a). to be a necessary party to a proceeding to obtain an injunction to prohibit release of information he had requested under the Public Records Act.

Introduction

This is an action where a temporary injunction was entered to prohibit disclosure of information related to referendum R-71. As noted in previous pleadings, West has been invidiously foreclosed from seeking relief in the State

¹ 09 CV 05456 BHS
MOTION TO
VACATE/JOIN

Arthur West
120 State Ave NE #1497
Olympia, Washington, 98501

Court by this Federal Court's orders, and is particularly injured in that he has had a suit for review of the Secretary of State's ballot certification and disclosure of public records dismissed by the Thurston County Superior Court on the expressly stated basis of the District Court's order in this case.

Argument

On May 13, 2010 the Washington State State Supreme Court, in *Burk v. DOL*, issued a published opinion decisively rejecting the refusal of a trial Court to join an incarcerated felon as an interested party in an action seeking an injunction under the State Public Records Act.

This precedent unequivocally requires that West's (previously filed) motion for reconsideration be granted that the previous injunction and all other previous orders in respect to West be vacated, and that he be joined as a necessary party in any further proceedings, as required by FRCP 19(a), which is essentially identical with the State Court Rule 19(a) considered in the *Burk* case.

Conclusion

Even though the principle seems to be too self-evident to be the subject of serious debate, the Washington State Supreme Court has recently ruled that a citizen requesting records is a necessary party to an action seeking to restrain disclosure of the records they have requested. The federal judiciary are not islands of independent jurisprudence, or knight-errants roaming at will in pursuit of their own ideals of beauty or of goodness, (See *Cogle v. Snow*, 56 Wn. App. 499, 784 P.2d 554, (1990) but must follow the law of the States they operate within. West is an indispensable party to the proper litigation of the issues in this case, and it was a manifest abuse of discretion to deny him the opportunity to participate in the case,

as is the right of any other law abiding citizen or, for that matter, any convicted arsonist residing at the McNeil Island Corrections Center.

West has a brief due in the 9th Circuit on August 20th, and requests that a final ruling issue prior to this date, for the purposes of efficient appellate review.

I certify the foregoing to be correct and true. Done July 17, 2010.

Arthur West